

Division of Mental Health, Developmental Disabilities and Substance Abuse Services (DMH/DD/SAS)

Policy and Procedure for the Review, Approval and Follow-up of Plan(s) of Correction (POC)

Introduction

In order to assure the citizens of North Carolina, and the consumers and family members of persons who receive mental health, developmental disability and/or substance abuse (MH/DD/SA) services in North Carolina, that

1. When findings of Endorsement Reviews, Monitoring or Audits of MH/DD/SA services, or findings of investigations undertaken by the DMH/DD/SAS or its agent, require corrective action in order for the issues identified and cited as out-of-compliance to be corrected,
2. When the circumstances which contributed to the out-of-compliance findings may be addressed so as to minimize or eliminate the cause of the out-of-compliance findings,
3. When the findings of out-of-compliance suggest the need for technical assistance that would address the system issues that contributed to the out-of-compliance findings,
4. When Investigations of Complaints or Allegations of Violations result in findings of circumstances out-of-compliance with Federal or State Law or Administrative Rule, or published DMH/DD/SAS policy,

The Division of Mental Health, Developmental Disabilities and Substance Abuse Services (DMH/DD/SAS) and/or the Director of the Local Management Entity (LME), hereafter jointly referred to as the DMH/DD/SAS agent(s), have the authority and responsibility to:

1. Assign, review, approve Corrective Actions through the requirement of the submission of a Plan of Correction (POC) (AKA - Corrective Action Plan), and to
2. Provide technical assistance as needed to facilitate the successful implementation of appropriate corrective actions.

The DMH/DD/SAS agent(s) or her/his designee is responsible for:

1. Determination of the Requirement for a Plan of Correction;
2. Review and Approval of the Plan of Correction;
3. Follow-Up to the Plan of Correction
4. Referral of Observed Quality Performance Issues to the Appropriate DMH/DD/SAS Team(s) for appropriate disposition.

Protocol for Determining if a Plan of Correction is Necessary

A Plan of Correction may be required as a result of any of the following circumstances:

1. A Medicaid Audit results in a pattern of out-of-compliance findings;
2. An endorsement review results in a pattern of out-of-compliance findings;
3. A Performance Management Agreement review results in a pattern out-of-compliance findings;
4. An Investigation of a Complaint or Allegation of Violation which results in findings of non-compliance with Federal or State Law or Administrative Rule, or published DMH/DD/SAS Policy.

5. Any review, audit or monitoring which reveals systematic and or programmatic issues which are in violation or contrary to Federal or State Law or Administrative Rule, or published DMH/DD/SAS Policy

Protocol for Responding to Observed Quality Performance Issues in the Course of Performing Endorsement Reviews, Medicaid Audits, Performance Reviews, or Investigations of Complaints or Allegations of Violations

Occasions arise in which observations are made by the DMH/DD/SAS agent(s) which are not a part of Endorsement Reviews, Medicaid Audits, Performance Reviews or a part of the original complaint but in the judgment of the DMH/DD/SAS agent(s) or her/his designee need to be addressed. If these issues are within the scope of the DMH/DD/SAS agent(s), a Plan of Correction may be required to address the issues. In cases where the issue is outside the scope of the DMH/DD/SAS, the DMH/DD/SAS agent(s) or her/his designee, determines the appropriate point of referral for the issue or circumstance observed. Such referrals may go to the Division of Health Service Regulation, the Division of Social Services, the Division of Medical Assistance, or DMH/DD/SAS specific teams .

Timetable for the Submission of the Plan of Correction

The Plan of Correction is due to the location specified by the assigning DMH/DD/SAS agent(s), no more than fifteen (15) calendar days from the date of the receipt or attempted delivery of the identified out-of-compliance finding document. Receipt is defined by an employee of the agency accepting delivery of the out-of-compliance finding document. Attempted delivery is defined as verification from an outside source (such as UPS, Fed-Ex, USPS, etc.) that the out-of – compliance finding document delivery was attempted. Refusal of an agency to accept the out-of-compliance document does not alter the timetable. For calculation purposes, date of the receipt or attempted delivery of the identified out-of-compliance finding document is day one (1). Submitting a Plan of Correction to a location other than the one specified by the assigning DMH/DD/SAS agent(s) is unacceptable and shall not be grounds for appeal.

Appeals / Recoupment

An appeal of an out-of- compliance finding does not negate the requirement for a Plan of Correction. Should the appeal be decided in the favor of the provider, the results will be noted in the master Plan of Correction file and the provider will be notified that the action is closed. Decisions by the Division of Medical Assistance in which the out-of-compliance finding is upheld or unquestioned but there will be no recoupment of monies associated with an out-of-compliance finding will not negate the necessity of a Plan of Correction. The provider or entity should work under the assumption that the Plan of Correction is due and or in full effect until written notice is provide from the DMH/DD/SAS agent(s) to indicate otherwise.

Failure to Submit a Required Plan of Correction

Protocol for Plans of Correction originating with the DMH/DD/SAS:

The Audit Report, Investigation Report or Letter identifying the need for a POC will serve as the initial request. Should a provider fail to submit a plan of correction within the specified timeframe, the provider will be sent a reminder letter and asked to submit the plan immediately. If the provider has not responded to the reminder letter within ten (10) calendar days of receipt or attempted delivery, a final request will be sent advising the consequences of failure to submit a

Plan of Correction (per 10A NCAC 26C .0502). The provider will have ten (10) calendar days from receipt or attempted delivery to respond to the final request. If there is no response to the final request, within the specified timeframes, the matter will be submitted to the appropriate DMH/DD/SAS personnel for possible revocation of authorization to receive public funding for providing mental health, developmental disabilities and substance abuse services pursuant to 10A NCAC 26C .0504. The designated DMH/DD/SAS personnel will follow the *Protocol for Summary Suspension and Revocation of authorization to receive public funding for providing mental health, developmental disabilities and substance abuse services*. If the provider subject to revocation is endorsed, the designated DMH/DD/SAS personnel will notify the endorsing LME. The endorsing LME will immediately withdraw endorsements. Any and all appeals associated with a revocation will be made in accordance with G.S. 150 and will supersede any appeal rights associated with endorsement withdrawal.

Protocol for Plans of Correction originating with the LME:

The Audit Report, Investigation Report or Letter identifying the need for a POC will serve as the initial request. Should a provider fail to submit a plan of correction within the specified timeframe, the provider will be sent a reminder letter and asked to submit the plan immediately. If the provider has not responded to the reminder letter within ten (10) calendar days of receipt or attempted delivery, a final request will be sent advising the consequences of failure to submit a Plan of Correction. The provider will have ten (10) calendar days from receipt or attempted delivery to respond to the final request. If there is no response to the final request, within the specified timeframes, the matter will be submitted to the appropriate personnel for possible withdrawal of endorsement (for endorsed services) or revocation of authorization to receive public funding for providing mental health, developmental disabilities and substance abuse services pursuant to 10A NCAC 26C .0504 (for non-endorsed services). The designated personnel will follow the withdrawal section of the *POLICY AND PROCEDURES FOR ENDORSEMENT OF PROVIDERS OF Medicaid Reimbursable MH-DD-SA Services (10-01-07)*.

Components of a Plan of Correction

A Plan of Correction is a systematic method of eliminating or minimizing the reoccurrence of the out of compliance. At a minimum, the Plan of Correction must include:

1. A reference to the finding of Out-Of-Compliance;
2. A description of how any corrections are to be made;
3. A timetable for the implementation and completion of the corrective action(s).
4. The responsible person(s) who will ensure the Plan of Correction is followed.

Criteria for Review of the Plan of Correction

The DMH/DD/SAS agent(s) or her/his designee reviews the Corrective Plan against the following evaluative criteria:

1. Has the submitting party accurately stated the issue to be corrected?
2. Are the corrective action steps appropriate to address the issue to be corrected?
3. Are the corrective action steps realistic for the submitting party to accomplish?
4. Is the timetable realistic for the submitting party to accomplish?
5. Is the timetable compact enough to assure corrective action in a reasonable time?
6. Are the corrective action steps addressed in sufficient detail to indicate a thoughtful and planful response to the issue to be corrected?

7. If training is a component of the corrective action plan, is there sufficient detail present to indicate that the submitting party has undertaken the planning and implementation of the training? For instance, are dates for training, location of training, providers of training indicated established?
8. Is the plan of correction of sufficient scope to ensure systemic root causes are identified and addressed?

DMH/DD/SAS Agent(s) Response to the Plan of Correction

Upon receipt, the Plan of Correction will be logged. A letter of receipt will be sent to the individual / provider submitting the Plan of Correction. The DMH/DD/SAS agent(s) or her/his designee reviews will assign the Plan of Correction for review and provide a deadline for a decision on acceptance. The assigned reviewer will review the Plan of Correction based on established criteria and make one of the following determinations:

1. Plan Accepted. In this case the Plan of Correction reviewer has determined that the submitted plan is appropriate to the Criteria for Review.
2. Plan Partially Accepted. In this case, the Plan of Correction reviewer has determined that the plan addresses many or most of the issues identified as out of compliance, but not all. In this case, only those components of the Plan determined to be not acceptable must be resubmitted for review. The Plan of Correction reviewer returns the determination to the submitting party, along with a cover letter specifying those portions of the plan which require revision and the criteria by which those components were determined to be unacceptable.
3. Plan Not Accepted. In this case, the Plan of Correction reviewer has determined that the submitted plan does not substantially address the issues identified, and must be resubmitted in full. The Plan of Correction reviewer returns the determination to the submitting party, along with a cover letter specifying the criteria by which the plan was determined to be unacceptable.

A notification letter from the DMH/DD/SAS agent(s) or her/his designee reviews will be mailed to the individual / provider submitting the Plan of Correction within fifteen (15) calendar days of receipt of the Plan of Correction by the DMH/DD/SAS agent(s). The notification letter will advise the decision of the DMH/DD/SAS agent(s) and the appropriate response by the individual / provider.

For circumstances described in (2) and (3) above, the submitting party is given ten (10) calendar days from the receipt of the DMH/DD/SAS agent(s) Response to resubmit the Plan of Correction.

The provider will be given a total of three opportunities to submit an acceptable Plan of Correction.

Protocol for Plans of Correction originating with the DMH/DD/SAS:

If the third submission is unacceptable, the matter will be submitted to the appropriate DMH/DD/SAS personnel for possible revocation of authorization to receive public funding for providing mental health, developmental disabilities and substance abuse services pursuant to 10A NCAC 26C .0504. The designated DMH/DD/SAS personnel will follow the *Protocol for Summary Suspension and Revocation of authorization to receive public funding for providing mental health, developmental disabilities and substance abuse services*. If the provider subject to revocation is endorsed, the designated DMH/DD/SAS personnel will notify the endorsing

LME. The endorsing LME will immediately withdraw endorsements. Any and all appeals associated with a revocation will be made in accordance with G.S. 150 and will supersede any appeal rights associated with endorsement withdrawal.

Protocol for Plans of Correction originating with the LME:

If the third submission is unacceptable, the matter will be submitted to the appropriate personnel for possible withdrawal of endorsement (for endorsed services) or revocation of authorization to receive public funding for providing mental health, developmental disabilities and substance abuse services pursuant to 10A NCAC 26C .0504 (for non-endorsed services). For endorsed services, the designated LME personnel will follow the withdrawal section of the *POLICY AND PROCEDURES FOR ENDORSEMENT OF PROVIDERS OF Medicaid Reimbursable MH-DD-SA Services (10-01-07)*. For non-endorsed services, the designated DMH/DD/SAS personnel will follow the *Protocol for Summary Suspension and Revocation of authorization to receive public funding for providing mental health, developmental disabilities and substance abuse services*.

Follow-up of Plans of Correction

In approximately sixty (60) calendar days following full acceptance of a Plan of Correction, the assigned reviewer will follow-up to ensure the individual / provider has followed the approved Plan and the items identified in the out-of-compliance finding are minimized or eliminated.

When the issue(s) addressed in the Plan of Correction pertain to items in the client record, the complete record should be present for review. The reviewer may make an on-site visit or arrange with the provider for the complete records to be brought to an agreed upon location. The reviewer will randomly select a sample of documentation to review which will verify that the items identified in the out-of-compliance finding are minimized or eliminated.

When the issue(s) addressed in the Plan of Correction pertain to items not contained in the client record, the reviewer may, at his / her discretion, have documents mailed or faxed for review. The document mailed or faxed should be of sufficient quantity and scope in order to render a decision as to whether the Plan of Correction is being followed and the items identified in the out-of-compliance finding are minimized or eliminated.

FIRST FOLLOW-UP:

If the reviewer makes the determination that the Plan of Correction is being followed AND the issue(s) identified in the out-of-compliance finding is minimized or eliminated, the reviewer will designate the Action Closed.

If the reviewer makes the determination that the Plan of Correction is not being followed or the issues are not minimized or eliminated, additional follow-up will be required. The provider will be notified in writing of the requirement for additional follow-up and will be advised of the possible consequences of continued out-of-compliance.

FINAL FOLLOW-UP:

In approximately twenty (20) calendar days following receipt or attempted delivery of the "additional follow-up required" letter, the assigned reviewer will follow-up to ensure the individual / provider has followed the approved Plan and the items identified in the out-of-compliance finding are minimized or eliminated.

Due to the significance and possible negative implications resulting from the final follow-up, the DMH/DD/SAS agent(s) will make every effort to send at least two reviewers to the final follow-up.

If the reviewers make the determination that the Plan of Correction is being followed AND the issue identified in the out-of-compliance finding is minimized or eliminated, the reviewers will designate the Action Closed.

Protocol for Plans of Correction originating with the DMH/DD/SAS:

If the issues are still not resolved, the reviewers will submit the findings to the designated DMH/DD/SAS personnel. The designated DMH/DD/SAS personnel will follow the *Protocol for Summary Suspension and Revocation of authorization to receive public funding for providing mental health, developmental disabilities and substance abuse services* and submit the documentation for revocation of authorization to receive public funding for providing mental health, developmental disabilities and substance abuse services pursuant to 10A NCAC 26C .0504. If the provider subject to revocation is endorsed, the designated DMH/DD/SAS personnel will notify the endorsing LME. The endorsing LME will immediately withdraw endorsements. Any and all appeals associated with a revocation will be made in accordance with G.S. 150 and will supersede any appeal rights associated with endorsement withdrawal.

Protocol for Plans of Correction originating with the LME:

If the issues are still not resolved, the matter will be submitted to the appropriate personnel for possible withdrawal of endorsement (for endorsed services) or revocation of authorization to receive public funding for providing mental health, developmental disabilities and substance abuse services pursuant to 10A NCAC 26C .0504 (for non-endorsed services). For endorsed services, the designated LME personnel will follow the withdrawal section of the *POLICY AND PROCEDURES FOR ENDORSEMENT OF PROVIDERS OF Medicaid Reimbursable MH-DD-SA Services* (10-01-07). For non-endorsed services, the designated DMH/DD/SAS personnel will follow the *Protocol for Summary Suspension and Revocation of authorization to receive public funding for providing mental health, developmental disabilities and substance abuse services*.

At any time in the follow-up process the reviewer determines that the Plan of Correction is being followed but the issue has not been resolved, the reviewer will require an additional Plan of Correction. The provider is given ten (10) calendar days from the receipt of the DMH/DD/SAS agent(s) response to submit a new Plan of Correction. The provider will be given a total of two follow-up opportunities to demonstrate compliance (even if an additional Plan of Correction is required to address the initial issues).

Correspondence

All actions on the part of the DMH/DD/SAS agent(s) shall be in writing and delivered through a traceable source (Certified Mail, Fed-Ex, UPS, etc) with the exception of the action closed notification which may be mailed USPS standard delivery.

Consequences of Inability or Unwillingness to Submit an Acceptable Corrective Action Plan

According to the *POLICY AND PROCEDURES FOR ENDORSEMENT OF PROVIDERS OF Medicaid Reimbursable MH-DD-SA Services (10-01-07)* and 10A NCAC 26C .0502, Administrative Rules on Summary Suspension and Revocation, Subsection 5. (“Definitions”) (f) identifies a criterion for the potential summary suspension and revocation of authorization to receive public funding for providing mental health, developmental disabilities and substance abuse services as, “*the provider has not submitted, revised or implemented a plan of correction in the specified timeframes.*” Should the process of negotiation between the provider / individual and DMH/DD/SAS agent(s) not produce an acceptable Plan of Correction, this Rule or Policy may be invoked to initiate proceedings which may culminate in the eventual withdrawal of endorsement or revocation of the individual / provider’s ability to provide services to MH/DD/SA consumers. Every effort should be made on the part of both the provider / individual and DMH/DD/SAS agent(s) to agree on a suitable Plan of Correction prior to this terminal action.